

# CERTIFIED TRANSCRIPT

1

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

CIVIL ACTION NO. CV-07-4137

L & L WINGS, INC.,

Plaintiff and

Counterclaim Defendants,

vs.

MARCO-DESTIN, INC.; 1000 HIGHWAY

98 EAST CORP.; PANAMA SURF & SPORT, INC.;

and E & T, INC.

Defendants and

Counterclaim Plaintiffs.

- - - - - x

222 Lakeview Avenue

Suite 400

West Palm Beach, Florida

Friday, July 11, 2008

9:35 a.m. - 11:54 a.m.

1:07 p.m. - 2:05 p.m.

DEPOSITION OF MORTY ETGAR

Taken before Donald W. McKay, RMR, CRR, a  
Notary Public for the State of Florida at Large,  
pursuant to Notice of Taking Deposition filed in the  
above-styled cause.

VERITEXT REPORTING COMPANY

212-267-6868

www.veritext.com

516-608-2400

1           A. It was Etgar & Gearhart. But then Gearhart  
2 became an employee after a while. Now he's only --  
3 I'm the only principal now.

4           Q. So it's just called -- what's the name of  
5 your --

6           A. Morty Etgar, P.A.

7           Q. How many people do you employ?

8           A. It changes during the year. Between six and  
9 twelve.

10          Q. How many of those are CPA's?

11          A. Four.

12          Q. And the others, what do they do? Are they  
13 staff?

14          A. Staff and secretarial.

15          Q. Where is your business located?

16          A. Downtown Miami.

17          Q. Are you familiar with a company called L & L  
18 Wings?

19          A. To some extent.

20          Q. Have you ever done any work for them?

21          A. No.

22          Q. Are you familiar with Eli Tabib?

23          A. Yes.

24          Q. Have you done work -- have you performed CPA  
25 work for him?

1 A. Yes.

2 Q. And other accounting work?

3 A. Yes.

4 Q. Are you familiar with Marco-Destin, Inc.?

5 A. Yes.

6 Q. Have you performed accounting and financial  
7 work for them?

8 A. Yes.

9 Q. The same question for E & T.

10 A. Yes.

11 Q. 1000 Highway 98 East?

12 A. Yes.

13 Q. And Panama Surf & Sport?

14 A. Yes.

15 Q. TLE Management, Inc.?

16 A. Yes.

17 Q. How about Elite Real Estate?

18 A. Yes.

19 Q. How about Alvin's, Inc.? A new company he  
20 purchased last year.

21 A. Yes.

22 Q. When did you first become acquainted with Eli  
23 and his companies?

24 A. Approximately ten years ago.

25 Q. Can you tell me the circumstances of that.

1 A. Yes.

2 Q. What does that mean?

3 A. It mean the company wants to -- different  
4 status -- economic status of companies, they want to  
5 have different types of financial statements, for a  
6 variety of reasons. It may not be for one specific  
7 reason.

8 Q. So they hired you to come in and prepare  
9 financial statements. Is that what you're saying?

10 A. Yes.

11 Q. Were you also retained to prepare tax  
12 returns?

13 A. Yes.

14 Q. And what company retained you, to the best of  
15 your knowledge?

16 A. Marco-Destin, principally.

17 Q. Who was your contact at Marco-Destin at this  
18 time? You said ten years ago. I'm assuming you mean  
19 around '98.

20 A. Nir. '98, 2000. Nir and Zabari.

21 Q. Do you recall what information Nir provided  
22 to you in connection with your preparation of  
23 financial statements and tax returns?

24 A. I don't recall specifically.

25 Q. Can you tell me generally.

1           A. Yes. There is a general requirement. The  
2 first thing is to have a trial balance prepared by the  
3 company, prior year tax returns or financial  
4 statements if existing.

5           Q. Now, in preparing these financial statements  
6 in 1998 -- I can show you the first one, I believe was  
7 '98 or '99 -- was this a review, a compilation or an  
8 audit?

9           A. I believe it was a review.

10          Q. Can you tell me what a review is.

11          A. I'll explain you what is a review by telling  
12 you what are the differences between review and other  
13 type of financial statements.

14          Q. Let me just make sure I understand. There is  
15 a review, a compilation and an audit?

16          A. Yes.

17          Q. So let's talk about those.

18          A. A review must have notes to financial  
19 statements whereas compilation doesn't have to have.  
20 A review must have cash flow statements when a  
21 compilation doesn't.

22          Q. Go a little slower for me. Hold on. Cash  
23 flow statements. Okay.

24          A. These are the differences between a review  
25 and a compilation. The differences between a review

1  
2 EXCEPT FOR ANY CORRECTIONS MADE ON THE  
3 ERRATA SHEET BY ME, I CERTIFY THIS IS A  
4 TRUE AND ACCURATE TRANSCRIPT. FURTHER  
5 DEPONENT SAYETH NOT.

6  
7 \_\_\_\_\_  
8 MORTY ETGAR

9 Sworn to and subscribed before me this \_\_\_\_\_  
10 day of \_\_\_\_\_, 2008.

11 Personally known or I.D.

12 \_\_\_\_\_  
13 Notary Public in and for the  
14 State of Florida at Large.

15 My commission expires:  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25